

Notice of Allowability

Application No.

09/872,051

Examiner

David H Kruse

Applicant(s)

BEHR ET AL.

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Amendment filed 4 March 2004.
2. ☒ The allowed claim(s) is/are 5 and 17-19, renumbered 2,3,4 and 1.
3. ☒ The drawings filed on 01 June 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4 March 2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date SAME.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas P. McBride on 27 May 2004.

The application has been amended as follows:

At page 1, line 10 of the specification as amended on 11 July 2003, "priority from" has been amended to read -- benefit of --.

The Title of the Invention has been replaced with the following;

-- CORN PLANTS COMPRISING EVENT PV-ZMGT32(nk603) --

The Abstract on page 29 of the specification has been replaced with the following;

-- The present invention relates to corn plant PV-ZMGT32(nk603) having a transformation event that produces glyphosate tolerance. The invention also relates to progeny corn plants having this event. --

In the claims;

Claim 5 (amended) A corn plant, or part thereof, [produced] grown from [seed deposited as ATCC Accession No. PTA-2478] the seed of claim 19.

Claim 17 (amended) A [Transgenic] transgenic seed produced from the corn plant of claim 5 comprising event PV-ZMGT32(nk603).

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Claim 18 (amended) A transgenic corn plant, or part thereof, grown from the seed of claim 17.

Claim 19 (new) A seed of corn plant PV-ZMGT32(nk603), representative seed having been deposited as ATCC Accession No. PTA-2478.

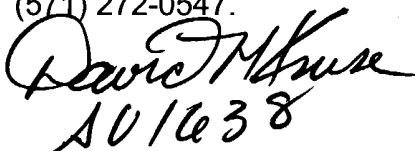
2. The following is an examiner's statement of reasons for allowance: The claims had been previously allowed. New claim 19 is supported in the specification at page 1, 1st paragraph as originally filed. The amendment to claim 17 is supported in the specification at pages 4-6.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H. Kruse, Ph.D. whose telephone number is (571) 272-0799. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Amy Nelson can be reached at (571) 272-0804. The fax telephone number for this Group is (703) 872-9306 Before Final or (703) 872-9307 After Final.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-0547.

A handwritten signature in black ink that reads "David H. Kruse". Below the signature, the date "5/16/04" is written in a similar cursive style.

David H. Kruse, Ph.D.
27 May 2004